



European Patent Office: Scandalous patent granted on tomatoes

Monopoly on breeding with resistance genes found in wild tomatoes

29 September 2025 / Patent EP3911147 held by the Dutch company, Enza Zaden, claims genes conferring resistance to the *Tomato Brown Rugose Fruit Virus* (ToBRFV). This virus poses a major threat to tomato cultivation. The claimed genes were discovered in a wild tomato species (*Solanum habrochaites*) that originates from Peru and Ecuador, and is considered one of the most important resources for genetic diversity in tomato breeding. The patent was granted by the European Patent Office (EPO) in July 2025.

The virus-resistant plants were crossed with tomatoes currently marketed in Europe (*Solanum lycopersicum*), thereby transferring the resistance. The European Patent Convention (EPC) prohibits patents on processes and products derived from crossing and selection. Nevertheless, this patent claims all breeding with the resistance genes for traditional breeding. If such patents are granted, natural genetic resources detected in wild or cultivated plants could be reclassified as technical inventions, thus making freedom to operate in traditional breeding impossible.



Claudia Radig-Willy

“The increasing threat of monopolization similarly affects gene banks and old regional varieties as well as currently marketed varieties on the market. These can be screened for naturally occurring genes whose further use may be blocked by a patent or be made subject to licensing agreements.” says Dagmar Urban for ARCHE NOAH.

Europe only allows genetically engineered plants to be patented. European legislators have enacted several legal provisions to prevent conventional plant breeding from being patented, most recently Rule 28(2) for the interpretation of the EPC. However, patent practices at the EPO undermine these provisions.

“This case is an alarming sign that the EPO is violating the intention of the legislator to prevent patents on plants and plant material used in conventional breeding. Furthermore, the patent shows that company activities also include biopiracy.” Johanna Eckhardt says for *No Patents on Seeds!*.

Against this backdrop, *No Patents on Seeds!* recommends that the EU launch an initiative to definitively clarify the limits of patentability in law. This could be decided within the framework and context of the current negotiations on new genomic technologies (NGTs).

No Patents on Seeds! recently joined with other organizations and breeding companies to file an opposition to another patent on tomatoes (EP 3629711). Legally, however, the new patent described above must be assessed differently. The older patent was already filed before Rule 28(2) officially came into force. The Enza Zaden patent is the first to be filed and granted after Rule 28(2) came into force claiming natural genes for crossing and selection.

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Further information

- Tomato patents (ToBRF-Virus): https://www.no-patents-on-seeds.org/en/jordan_virus
- The Enza Zaden patent on the homepage of the EPO: <https://register.epo.org/application?number=EP19880924>

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